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13

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16

17 INNOVATION VENTURES, LLC, LIVING
ESSENTIALS, LLC, and INTERNATIONAL IP
18 HOLDINGS, LLC,

19 Plaintiffs,

20 v.

21 PITTSBURG WHOLESALE GROCERS, INC.,
22 d/b/a PITCO FOODS, ET AL.,

23 Defendants.

24 AND RELATED CROSS-CLAIMS.
25
26
27
28

Case No.: C-12-5523-WHA-ELP

**STIPULATION UNDER LOCAL RULE 6-2
TO SHORTEN TIME FOR HEARING ON
PLAINTIFFS' MOTION FOR CHANGE OF
VENUE PURSUANT TO 18 U.S.C. §1404**

1 In accordance with Civil Local Rule 6-2, Plaintiffs Innovation Ventures, LLC, Living
2 Essentials, LLC, and International IP Holdings, LLC (collectively, “Living Essentials”); Defendants
3 Dan-Dee Company, Inc., Kevin Attiq, and Fadi Attiq (collectively, the “Dan-Dee Defendants”); third-
4 party defendants Mario Ramirez, Camilo Ramirez, MCR Innovations and Packaging, Inc., MCR
5 Printing & Packaging Corp., and Naftaunited.com (collectively, the “MCR Parties”); third-party
6 defendants Jose Navarro and One Stop Label Corporation (collectively, “the One Stop Label Parties”);
7 third-party defendants Tradeway Int’l, Inc. d/b/a Baja Exporting, Joseph Shayota, and Adriana Shayota
8 (collectively, the “Baja Parties”); and third-party defendants Walid Jamil, Raid Jamil, Justin Shayota,
9 Midwest Wholesale Distributors, Inc., J.T. Wholesale, Inc., and Trimexico, Inc. (collectively, the
10 “Midwest Parties”) hereby present this stipulation to the Court to Shorten Time to Hear Living
11 Essentials’ unopposed Notice of Motion and Motion for Change of Venue Pursuant to 28 U.S.C.
12 §1404.

13 WHEREAS, on this day, Living Essentials filed a Notice of Motion and Motion for Change of
14 Venue Pursuant to 28 U.S.C. §1404 (“Motion”);

15 WHEREAS Civil Local Rule 7-2(a) requires the motion to be noticed for hearing not less than
16 35 days after service of the motion;

17 ACCORDINGLY, the above-named parties, pursuant to Civil Local Rule 6-2, hereby
18 STIPULATE to shortening the time under Civil Local Rule 7-2(a) for the hearing on Living Essentials’
19 Motion on the following grounds:

20 1. Living Essentials’ Motion requests that this action be transferred to the Eastern District
21 of New York for consolidation with the first-filed, larger companion lawsuit, captioned *Innovation*
22 *Ventures et al. v. Ultimate One Distributing Corp. et al.*, 12-cv-5354 (KAM) (RLM).

23 2. Living Essentials could not have moved for this relief earlier than today. Until this past
24 weekend, this case involved claims asserted by and against certain parties who were not involved in
25 the New York action, who were not subject to jurisdiction in New York, and who would not consent to
26 transfer: Elite Wholesale, Inc., Tonic Wholesale Inc. d/b/a Ace Wholesale, Dapan USA Corp. d/b/a
27 Frontier Wholesale, and Sung Keun Lee (collectively, the “Elite Parties”). However, over the past few
28 days, all claims in this lawsuit involving the Elite Parties were settled (pending the Court’s so-ordering

1 of the settlements). Now, all remaining parties in this case are *also* parties to the parallel New York
2 action, rendering transfer and consolidation a realistic option for the first time.

3 3. The standard 35-day notice period for the Motion pursuant to Local Rule 7-1 would
4 require Living Essentials' Motion to be noticed for hearing on December 19, 2013, less than one
5 month before the January 13, 2014 trial date in the present action.

6 4. The standard 35-day notice period is unnecessary in this instance because all parties to
7 this matter—including the Dan-Dee Defendants (who are the only remaining direct defendants) and all
8 actively litigating third-party defendants—consent to the relief requested.

9 5. Shortening the time to hear the Living Essentials' Motion alone will have no effect on
10 other deadlines in this case.

11 6. Justice and efficiency would be best served by having Living Essentials' Motion
12 noticed and heard on an expedited schedule, in light of the upcoming trial date set for January 13,
13 2014, and the extensive pretrial preparations the parties will be required to make over the coming
14 weeks. Those preparations have now become duplicative of the preparations the parties will be
15 required to make in the New York action, and expedited consideration of this motion would allow the
16 parties to avoid incurring those considerable expenses unnecessarily.

17 7. Fact discovery in this action closed on October 31, 2013, and expert discovery is now
18 underway. Trial is scheduled for January 13, 2014. Meanwhile, fact discovery in the New York action
19 is scheduled to conclude on January 17, 2014, and expert discovery in that action is scheduled to
20 conclude on May 23, 2014, with trial to follow.

21 8. As Living Essentials and the Dan-Dee Defendants were already set to appear before the
22 Court on November 14, 2013 at 8:00 am on Defendant Dan-Dee's Motion to Authorize Salaries, the
23 parties have proposed having Living Essentials' Notice of Motion and Motion for Change of Venue
24 Pursuant to 28 U.S.C. §1404 heard at that date and time. Yesterday, Dan-Dee withdrew its Motion to
25 Authorize Salaries; the parties respectfully request that the instant Motion be heard on November 14 in
26 its stead, assuming the Court remains available.

27
28 **IT IS SO STIPULATED.**

1 Dated: November 12, 2013

Respectfully submitted,

2 MURPHY, PEARSON, BRADLEY & FEENEY

3
4 By: /s/ Thomas P. Mazzucco

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25 DATED: November 12, 2013

26 LAW OFFICES OF WILLIAM MARKHAM, P.C.

27 By: /s/ William Markham

28 William Markham, Esq.
Attorneys for Defendant Dan-Dee Company, Inc.

29 DATED: November 12, 2013

30 GORDON & REES LLP

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32 AARON P. RUDIN
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34 Defendants and Cross-Claimants, MARIO
35 RAMIREZ, CAMILO RAMIREZ, MCR
36 INNOVATIONS AND PACKAGING, INC.,
37 MCR PRINTING & PACKAGING CORP., and

DATED: November 12, 2013

THE LAW OFFICES OF STANTON LEE PHILLIPS

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NAVARRO and ONE STOP LABEL
CORPORATION

DATED: November 12, 2013

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EXPORTING) JOPSEH SHAYOTA, and
ADRIANA SHAYOTA


DATED: November 12, 2013

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Attorneys for Third-Party Defendants, Cross-
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RAID JAMIL, JUSTIN SHAYOTA, MIDWEST
WHOLESALE DISTRIBUTORS, INC., JT
WHOLESALE, INC., and TRIMEXICO, INC.

Pursuant to the above Stipulation, IT IS SO ORDERED. Plaintiffs' Motion for Change of
Venue Pursuant to 28 U.S.C. §1404 shall be heard on shortened time on November 14, 2013, at 8:00
a.m, ~~or the earliest available date with the Court.~~

Entered: November 13, 2013.


The Honorable William H. Alsup
UNITED STATES DISTRICT COURT

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